

### Remarks

In view of the following remarks, reconsideration of the outstanding office action is respectfully requested.

The rejection of claims 1-8 under 35 U.S.C. § 103(a) for obviousness over U.S. Patent No. 5,324,138 to Hansen ("Hansen") in view of U.S. Patent No. 6,152,656 to Curtis et al. ("Curtis") is respectfully traversed.

Hansen teaches a method of treating municipal solid waste that involves adding moisture to municipal solid waste, placing the moisturized waste into a waste pile, covering the waste pile with a covering material, and then aerating the waste pile for a sufficient length of time. The waste pile of Hansen is not placed into a landfill *per se*. Only after biostabilization has taken place is the waste from the waste pile introduced into the landfill.

Curtis teaches a dry material (cement/fly ash mixture) delivery system used in the environmental treatment of solid, semi-solid, and liquid industrial wastes that are present in the form of a sludge lagoon. The delivery system is an excavator equipped with a dry hopper mounted on the stick of the excavator adjacent a pair of counter rotating mixer drums. To provide for dust control as the dry material is pumped into the sludge lagoon, a spray nozzle is provided attached to the boom. The spray nozzle is connected to a water tank and motor.

Applicants submit that Curtis and Hansen are non-analogous art and, therefore, one of ordinary skill in the art would not have been motivated to combine the teachings thereof. In determining whether a reference constitutes "analogous art", the Federal Circuit has set forth a two-part test inquiring:

(1) whether the art is from the same problem solving field of endeavor, and (2) if the reference is not within the field of the inventor's endeavor, whether the reference is still reasonably pertinent to the particular problem with which the inventor is involved.

*See In re Clay*, 966 F.2d 656, 658-659, 23 USPQ2d 1058, 1060-1061 (Fed. Cir. 1992).

The problem solving area of the present invention relates to the treatment of municipal solid waste. While Hansen undoubtedly involves the treatment of municipal solid waste, Curtis clearly does not. As noted above, Curtis involves the treatment of industrial sludge lagoons, not for the purpose of decomposing the contents of the sludge lagoon but for purposes or physically mixing the contents of the sludge lagoon with a cement/fly ash

mixture to solidify the sludge lagoon (i.e., so that the former lagoon can support trucks and other vehicles, such as with parking lots, equipment storage areas, and the like). The use of a water spray to limit airborne dispersal of cement/fly ash dust (as in Curtis) is not at all pertinent to delivering water or other fluids onto municipal solid waste in order to promote its decomposition (as in the case with the present invention). Therefore, applicants submit that Curtis is not properly combinable with Hansen.


Applicants further submit that even if one of ordinary skill in the art were to combine the teachings of Curtis and Hansen, the combination thereof would not have suggested to one of ordinary skill in the art to practice the invention as presently claimed. In particular, the combination of Hansen and Curtis teach away from an excavator in the manner as recited in independent claim 1 (i.e., with the excavator is positioned on top of a landfill adjacent to a working face of the landfill).

With respect to claim 8, applicants submit that Curtis fails to teach a fluid delivery system that consists of an excavator as recited. In particular, the device of Curtis is intended primarily to deliver dry reagent to sludge, with mixing thereof, and fails to teach the use of an excavator. Because the device of Curtis fails to teach or suggest a fluid delivery system as presently recited, the rejection of claim 8 over Curtis is improper.

In view of all of the foregoing, applicants submit that this case is in condition for allowance and such allowance is earnestly solicited.

Respectfully submitted,

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Edwin V. Merkel  
Registration No. 40,087


NIXON PEABODY LLP  
Clinton Square, P.O. Box 31051  
Rochester, New York 14603-1051  
Telephone: (585) 263-1128  
Facsimile: (585) 263-1600

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